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**DEPARTMENT OF TRANSPORTATION****Coast Guard**

33 **CFR Parts 175, 177, 179, 181, and 183**

46 **CFR Parts 10, 15, 24, 25, 26, 28, 70, 169, and 175**

[USCG-1999-50401 ✓ ]

RIN 211%AF69

**Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA)**

AGENCY: Coast Guard, DOT.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Coast Guard will propose regulations that implement safety measures for uninspected passenger vessels under the Passenger Vessel Safety Act of 1993 (PVSA). These regulations will implement the new class of uninspected passenger vessel of at least 100 gross tons, address the confusion regarding bareboat charters, provide for the issuance of special permits to certain uninspected passenger vessels, and develop specific manning, structural fire protection, operating, and equipment requirements for a limited fleet of PVSA exempted vessels. To obtain information needed to develop appropriate rules, the Coast Guard asks for comments from the public on the questions listed in this document.

**DATES:** Comments must reach the Docket Management Facility on or before June 30, 1999.

**ADDRESSES:** You may mail your comments to the Docket Management Facility, (USCG-1999-5040), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-000 1, or deliver them to room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://www.dms.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, contact Lieutenant Keith B. Janssen, Office of Operating and Environmental Standards, (G-MSO-2), U.S. Coast Guard, telephone 202-267-1055. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Documentary Services Division, Department of Transportation, telephone 202-366-9329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG- 1999-5040) and the specific section of this document to which each comment applies, and give the reason for each comment. The Coast Guard will consider all comments received during the comment period. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

The Coast Guard plans no public hearing. You may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

The Passenger Vessel Safety Act of 1993 (PVSA) (Pub. L. 103-206) was signed on December 20, 1993. The PVSA makes several changes to the laws for uninspected passenger vessels. First, the PVSA requires vessels less than 100 gross tons to be inspected as a small passenger vessel if they are:

- Carrying more than 6 passengers, at least one of whom is a passenger for hire, whether chartered or not;
- Carrying more than 6 passengers when chartered with the crew provided or specified; or
- Carrying more than 12 passengers when chartered with no crew provided.

Second, the PVSA establishes a new class of uninspected passenger vessel of at least 100 gross tons. This new class of uninspected passenger vessel is limited to:

- Carrying no more than 12 passengers, at least one of whom is a passenger for hire, whether chartered or not;
- Carrying no more than 12 passengers when chartered with the crew provided or specified; or
- Carrying no more than 12 passengers when chartered with no crew provided.

Uninspected passenger vessels, greater than 100 gross tons, that carry more than 12 passengers for hire are to be inspected as a passenger vessel under 46 CFR Subchapter H.

Third, the PVSA requires the Coast Guard to develop equipment, construction, and operating standards for uninspected passenger vessels greater than 100 gross tons.

Fourth, the PVSA allows the Coast Guard to develop regulations for special permits that allow the operation of uninspected passenger vessels as authorized in section 511 of the PVSA. These special circumstances and conditions were described in Senate Report 103-198 and include among other items that:

- Special permits for uninspected passenger vessels will only be issued for charitable purposes;
- That a certain vessel may only be granted a special permit a maximum of four times per year; and
- That an application for a special permit must be made to and approved by the cognizant Officer in Charge of Marine Inspection prior to the voyage.

Fifth, and finally, the PVSA eliminates confusion regarding the use of bareboat charter agreements for the carriage of passengers for hire. The previous statutory definition of 'passenger' did not limit a vessel from having an unlimited number of charterers (owners). Therefore, vessels that were not certificated by the Coast Guard were able to carry large numbers of people. The PVSA's narrow definition of 'passenger' subjected some formerly chartered vessels to Coast Guard inspection for certification for the first time. The PVSA allowed these vessels to apply for inspection with a phase-in period for compliance. The

period for application expired June 21, 1994, and the period for compliance expired on December 21, 1996. With widespread public notification, several hundred charter vessels applied for and met the conditions for certification with the requirements of the PVSA and policy guidance of Navigation and Inspection Circular (NVIC) 7-94. This NVIC is available on the Internet at [www.uscg.mil/hq/g-m/nvic/index90.htm](http://www.uscg.mil/hq/g-m/nvic/index90.htm). Additionally, the PVSA authorizes the Coast Guard to develop specific operating and equipment requirements for 16 charter vessels greater than 100 gross tons that met exemption criteria contained in the PVSA and NVIC 7-94.

The Coast Guard plans to develop regulations that will implement the new class of uninspected passenger vessel of at least 100 gross tons, address the confusion regarding bareboat charters, provide for the issuance of special permits to certain uninspected passenger vessels, and develop specific operating and equipment requirements for a limited fleet of PVSA exempted vessels.

##### **Assistance for Small Entities**

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this notice so that they can better evaluate the effects of any future rule on them and participate in the rulemaking process. If your small business or organization is affected by the PVSA and you have questions concerning its provisions or options for compliance, please contact Lieutenant Keith B. Janssen, Office of Operating and Environmental Standards, (G-MSO-2), U.S. Coast Guard, telephone 202-267-1055.

##### **Questions**

The Coast Guard asks the public for input on the issues discussed in this document. To help develop a proposed rule, the Coast Guard requests comments on the following questions, although comments on other issues addressed in this document are also welcome. When responding to questions, please explain your reasons for each answer and follow the instructions located under **REQUEST FOR COMMENTS**.

##### **Questions 1 through 16 refer to uninspected passenger vessels of at least 100 gross tons**

(1) The Coast Guard is seeking information regarding the size of the fleet of uninspected passenger vessels of

at least 100 gross tons. Therefore, the Coast Guard requests information regarding the total number of this type of vessel at port, regional, and national levels.

(2) At which ports are these vessels located? Do these vessels operate out of some specific port all year? If not, from which additional port(s) do they operate? Please identify some specific port(s) rather than a region. That helps the Coast Guard identify any port(s) with a large population of this class of vessel. Please indicate what percentage of the year these vessels are in each location.

(3) What type of safety equipment do these vessels ordinarily carry? What type of safety equipment, at a minimum, should the Coast Guard require these vessels to carry? Examples of safety equipment include, but are not limited to: Type I personal flotation devices; ring life buoys; life rafts; auxiliary vessels; emergency position indicating radio beacon (EPIRB); high water alarms; fire and smoke alarms/detectors; and other fire fighting equipment or systems. What standard(s) should the safety equipment meet? Examples of existing standards for safety equipment include, but are not limited to: American Yacht and Boat Council (AYBC); National Fire Protection Association (NFPA); or American Bureau of Shipping (ABS).

(4) What generally accepted construction standard(s) should these vessels meet? Examples of generally accepted construction standards include, but are not limited to: AYBC, NFPA, or ABS. Do any applications or systems on these vessels currently meet generally accepted standards? Which generally accepted standards normally apply to which application or systems? Examples of applications and systems include, but are not limited to: lifesaving equipment, heating/cooling facilities, marine sanitation devices, structural fire-protection devices, and electrical wiring.

(5) Do owners, operators, or charter brokers require a minimum level of licensing and experience for a vessel operator? If so, what are those requirements? What licensing requirements should the Coast Guard require for operators of uninspected passenger vessels of at least 100 gross tons?

(6) How many businesses operate a full-time or part-time charter or passenger-for-hire service operation for this type of vessel? What portion of these businesses employ less than 500 people?

(7) Are these vessels operated in passenger-for-hire service on a full-time or part-time basis? How often are these

vessels used in personal or recreational service compared to the time these same vessels are used in passenger-for-hire service? Please indicate the time on an annual basis by days.

(8) What are current, advertised daily or weekly charter rates for this class of vessel? What are current, advertised daily or weekly passenger-for-hire service rates for this class of vessel? How will the implementation of the PVSA impact charter or passenger-for-hire service rates?

(9) How many days per year do these vessels currently operate in charter or passenger-for-hire service? How will the implementation of the PVSA impact the number of days per year that these vessels operate in charter or passenger-for-hire service?

(10) On average, how many hours per day do these vessels spend underway with at least one passenger for hire aboard?

(11) Are these vessels underway in the passenger-for-hire service more than 12 hours during a 24-hour period? If so, is this representative of normal operations or the occasional voyage? If possible, please identify the annual breakdown of passenger-for-hire service voyages less than and more than 12 hours duration in a 24-hour period. Please indicate this information by percentage.

(12) On which route(s) do these vessels operate routinely? On which route(s) do these vessels operate occasionally? Do traditional routes exist? If so, where?

(13) Are the majority of voyage itineraries for these vessels individually (custom) planned or are they regularly scheduled?

(14) What is the percentage breakdown between domestic and international voyages? Please indicate percentages on an annual basis.

(15) What are the major areas of concern regarding the impact that the implementation of the PVSA might have on the vessel fleet? Are there any generally recognized problems within the vessel fleet that should be addressed by regulation?

(16) What are other general areas of concern regarding possible regulatory action to implement the PVSA?

#### **Question 17 refers to any uninspected passenger vessel**

The PVSA allows the Coast Guard to develop regulations for special permits that allow the operation of uninspected passenger vessels as authorized in section 511 of the PVSA. These special circumstances and conditions were described in Senate Report 103-198 and include among other items that:

- Special permits for uninspected passenger vessels will only be issued for charitable purposes;

- That a certain vessel may only be granted a special permit a maximum of four times per year; and

- That an application for a special permit must be made to and approved by the cognizant Officer in Charge of Marine Inspection prior to the voyage.

(17) Based on this criteria, should the Coast Guard develop regulations to allow a special permit for uninspected passenger vessels? Please identify the reason(s) for your answer(s).

Dated: March 26, 1999.

**R.C. North,**

*Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 99-8024 Filed 3-31-99; 8:45 am]

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